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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 NEW CARE DEVELOPMENT, LLC, *et*
9 *al.*,

10 Plaintiffs,

11 v.

12 FIRST MERCURY INSURANCE
13 COMPANY,

14 Defendant.

Case No. C19-0004RSL

ORDER OF REMAND


15 This matter comes before the Court *sua sponte*. On January 2, 2019, defendant
16 removed this matter from state court alleging that this Court has diversity jurisdiction.
17 Pursuant to 28 U.S.C. § 1446(b), a notice of removal must be filed within thirty days of
18 receipt by defendant of the summons and complaint. The notice of removal states that
19 defendant was served on November 26, 2018, more than thirty days before this action
20 was removed. Defendant was therefore ordered to show cause why this matter should not
21 be remanded to state court. Dkt. # 6.

22 Having reviewed defendant's response to the order to show cause, the arguments
23 asserted therein are rejected. Under Washington law, "[a]n action is commenced when a
24 complaint is filed or the summons is served, whichever occurs first." Blankenship v.
25

1 Kaldor, 114 Wn. App. 312, 316 (2001) (internal quotation marks omitted). Defendant
2 acknowledges that it was served with the summons and complaint on November 26,
3 2018. Neither the subsequent filing of the lawsuit in state court nor defendant's
4 discovery of that filing extends the removal deadline established by 28 U.S.C. § 1446(b).
5 See Alderson v. Delta Air Lines, Inc., C18-1374JLR, 2018 WL 5240811 at *2-3 (Oct.
6 22, 2018); Dustin v. Meridian Fin. Servs., Inc., C17-1087JCC, 2017 WL 3773714 at *2-
7 3 (W.D. Wash. Aug. 31, 2017); Pacuska v. Allied Van Lines, Inc., C05-5830FDB, 2006
8 WL 521596 at *4 (W.D. Wash. Mar. 2, 2006).

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10 For all of the foregoing reasons, the Clerk of Court is again directed to remand the
11 above-captioned matter to King County Superior Court.

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13 Dated this 5th day of February, 2019.

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15 Robert S. Lasnik
16 United States District Judge
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